FINAL REPORT
OF THE
HEALTH FINANCE COMMISSION

Indiana Legislative Services Agency
200 W. Washington St., Suite 301
Indianapolis, Indiana 46204-2789

October, 1999

INDIANA LEGISLATIVE COUNCIL
1999

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Health Finance Commission

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A copy of this report is available on the Internet. Reports, minutes, and notices are organized by committee. This report and other document for this Commission can be accessed from the General Assembly Homepage at http://www.state.in.us/legislative/.

REPORT OF FINDINGS AND RECOMMENDATIONS

Health Finance Commission

I. STATUTORY AND LEGISLATIVE COUNCIL DIRECTIVES

The Health Finance Commission, according to IC 2-5-23, "may study any topic:

(1) directed by the Chairman of the Commission;
(2) assigned by the Legislative Council; or
(3) concerning issues that include:
    (A) the delivery, payment, and organization of health care services; and
    (B) rules adopted under IC 4-22-2 that pertain to health care delivery, payment, and services that are under the authority of any board or agency of state government."

The Legislative Council also assigned the following additional responsibility to the Commission: To study the need for a comprehensive long term care plan.

II. INTRODUCTION AND REASONS FOR STUDY

House Resolution No. 79 proposed that the Health Finance Commission study the need for, and the implementation of, a comprehensive long term health care plan for the elderly. Reasons included the following: (1) Due to medical advances, the people of Indiana are living longer; (2) Elderly citizens and their families are presented with numerous choices regarding their health care including choices regarding care options and funding under the CHOICE program, assisted living, guardian programs, and skilled nursing care; (3) It is vital that the state protect our senior citizens; (4) It is vital that nursing homes have sufficient opportunities and incentives to operate efficiently; and (5) The state must ensure that nursing homes provide the best possible patient-to-caregiver ratios and patients are given the best possible care.

III. SUMMARY OF WORK PROGRAM

The Commission met five times during the 1999 interim: August 25, September 20, October 7, October 19, and October 26.

At the first meeting, the Commission heard testimony regarding the concept of medical necessity, including whether the term "medically necessary" should be defined in statute. The Commission was provided information on how coverage decisions are made in the insurance industry and in the Medicaid program. The Commission also heard a report from the Health Professions Bureau on their licensing process for physicians and nurses.

At the second meeting, the Family and Social Services Administration (FSSA) gave a report on Indiana's long term care programs. The State Department of Health (SDH) provided a report on nursing home inspection and regulation. Nursing home industry representatives reported on the long term care issue from their perspective. Public testimony was also received regarding the performance of the nursing home industry.

At the third meeting, the Commission heard additional testimony from the nursing home industry and from long term care consumer representatives. FSSA reported on the CHIP (Children's Health Insurance Program) program.

At the fourth meeting, the Commission received more testimony from long term care consumer

representatives and from the Area Agencies on Aging. Testimony was also received regarding Adult Day Care Services. The Commission also received additional testimony on the medical necessity issue. Testimony was also received from several groups and individuals on the most appropriate use of funds that the state will receive as a result of the Tobacco Settlement.

At the fifth and final meeting, a quorum was never achieved for the purposes of voting on legislative proposals or approving the final report of the Commission.

IV. SUMMARY OF TESTIMONY

The Commission heard testimony on the following topics.

Long Term Care - Considerable testimony was received on the state of and the needs of the long term care system in Indiana. FSSA described the long term care programs that are currently provided by the state. The State Department of Health updated the Commission on their nursing facility inspection and regulatory program. Nursing home industry representatives discussed the issue of certificate of need (CON) programs, the importance of long term care insurance, the need to spend some of the Tobacco Settlement dollars on long term care, the problems of employee turnover, the inspection and regulation of nursing facilities, the need for an expansion of long term care options, payment sources for long term care, and the use of wage pass-throughs of Medicaid reimbursement to help with staffing problems.

Consumer representatives stressed the need for an expansion of long term care options and increased funding for those options, including the CHOICE program. Witnesses also stressed the need for improving and maintaining the quality of services provided by nursing homes, the importance of regulatory enforcement, increasing the fines imposed on the nursing homes not in compliance with state regulations, and the importance of staffing levels in nursing homes as being crucial to providing quality care. Witnesses also contended that CON programs and moratoriums were not needed and that the Long Term Care Ombudsman program was a good program, but was underfunded. The use of minimum staffing levels was also proposed. Consumer representatives also indicated that Tobacco Settlement dollars should be used for long term care purposes and Medicaid waivers should be used more aggressively. Public testimony was also received describing individual situations in nursing facilities and especially regarding the serious staffing problems in nursing homes.

Several of the long term care options, in addition to nursing homes, were discussed. These included expanded use of Medicaid waivers, increased funding for the CHOICE program, assisted living, adult foster care, and adult day care services.

Medical Necessity - Testimony was provided on the concept of medical necessity from the perspectives of providers, consumers, the insurance industry, and the Medicaid program. Examples of definitions of medical necessity were provided, as well as the differing opinions as to whether the term should be defined in statute. Some contended that medical necessity should be determined by the health care provider and that there can be problems associated with putting the definition in writing and in statute because it can potentially eliminate the use of some treatments. Alternative opinions were expressed that defining the term in statute can build in more objective standards for its implementation and that it is important to create a definition that puts the health care needs of the patient as the top priority.

Health Professions Bureau - The Health Professions Bureau provided an overview of their agency and a description of the licensing and renewal process. Provider groups contended that the process was not working efficiently or effectively. Complaints included renewal notices and applications not being received, no acceptance of walk-ins, a lack of timeliness in renewal of

licenses, provider fees being remitted to the state General Fund and subsequently reverted rather than kept for use by the Bureau, and the failure to annually collect and distribute demographic information on nurses.

CHIP Program - FSSA updated the Commission on the implementation of the CHIP program. FSSA discussed the enrollment progress of the program and the success of their outreach efforts. Information was provided regarding the implementation schedule for the program. Problems with the program's auto-assignment system in counties where provider panels were full were also discussed.

Tobacco Settlement - Testimony was provided regarding funds to be received by the state as a result of the Tobacco Settlement. Testimony focused on program areas in which to spend the funds, as well as the decision-making process or mechanism that the state should implement for determining how the dollars should be spent. Suggestions on the expenditure of the tobacco settlement funds included: (1) long term care; (2) health issues, in general; (3) tobacco control and smoking cessation programs; and (4) as state match for federal programs. Recommendations made in testimony regarding the process or mechanism for deciding how the funds should be spent included establishing a foundation or trust administered by a governing body with broad representation to either make the decisions or make recommendations to the State Budget Committee.

V. COMMITTEE FINDINGS AND RECOMMENDATIONS

The following legislative proposals were provided to Commission members.

PD3459 (Health Facility Certificate of Need) creates a certificate of need program to be administered by the State Department of Health until July 1, 2002.

PD3460 (Health Facility Violations) increases the amount of fines that the Commissioner of the State Department of Health may impose for breaches by health facilities. The bill also specifies that SDH must contract with an independent organization to operate an informal dispute resolution process required by federal law. The bill also contains other provisions regarding the regulation and enforcement of nursing homes.

PD3491 (Long Term Care Insurance for State Employees) requires the state to establish a program of group long term care insurance for its employees. The state is to contribute 25% of the premium for those employees who choose to purchase group long term care insurance policies.

PD3493 (Health Facility Violations) contains several provisions regarding the regulation and enforcement of nursing homes including the operation of an informal dispute resolution program and increased fines for breaches.

PD3500 (Health Facility Certificate of Need) creates a certificate of need program to be administered by the State Department of Health until July 1, 2002. The bill also allows a health facility to relocate beds to another facility under the same ownership or control and within six miles of the transferring facility.

PD3555 (Composition of the Health Finance Commission) changes the composition of the Health Finance Commission to consist of members of the Senate Health and Provider Services Standing Committee and the House Public Health Standing Committee.

PD3563 (Determinations of Medical Necessity) provides that a health maintenance organization

make determinations of medical necessity for health care services in writing and base the determination on certain standards.

PD3564 (Informal Dispute Resolution Process) requires the State Department of Health to contract with an independent organization to operate the informal dispute resolution process required by federal law.

PD3565 (Tobacco Settlement Funds) provides that all Tobacco Settlement funds are to be placed in an endowment fund and that interest from the fund be used to provide grants for health care and tobacco use prevention purposes. The bill also establishes the process by which funding decisions are to be made by the state.

PD3566 (Medical Necessity) requires a determination of medical necessity to be made by a qualified physician, in writing, and based on medical information.

PD3567 (Health Professions Bureau) requires the Health Professions Bureau to issue a renewal license or certificate within 10 days from the receipt of the required forms and evidence or on the same day an applicant for renewal appears in person at the Bureau.

Due to the absence of a quorum, no vote was taken on the above bill drafts. Also, no vote was taken on the question of the Commission's approval of this report.

W I T N E S S L I S T

Richard Adams, Avon, IN
Kelly Alley, Smoke-Free Indiana
John Cardwell, Citizens Action Coalition
Paul Chase, IN Task Force on Health Care Issues
Nancy Cobb, Indiana CHIP Program Office, FSSA
Gerald Coleman, Health Care Regulatory Services, SDH
Sam Cramer, M.D., Anthem Blue Cross/Blue Shield of Indiana
Jody Cruley, Bloomington Hospital Adult Day Care Center
Veronica Davidson, Mooresville, IN
Barbara Davis-Short, Danville, IN
Kathy Gifford, Office of Medicaid Policy and Planning, FSSA
Marilyn Hartle, Indiana Association of Adult Day Services
Charles Hiltunen, American Cancer Society/American Heart Association
Bob Hornyak, Bureau of Aging/IN-Home Services, FSSA
Tim Kennedy, Indiana Health and Hospital Association
Judith Kratzner, Indiana Association for Area Agencies for the Aging
Faith Laird, Indiana Health Care Association
Laura Langford, Health Professions Bureau
Jim Leich, Indiana Association of Homes for the Aging
J.D. Lux, Office of the Indiana Attorney General
Jean McDonald, Indiana Association for Home Care
Vince McGowan, Indiana Health Care Association
Naomi Patchin, Indiana State Nurses Association
Lauren Polite, Family and Social Services Administration
Paul Severence, United Senior Action
Karla Sneegas, Tobacco Smart Indiana Project
Doug Starks, Alzheimer's Association
Julia Vaughn, IN Task Force on Health Care Issues
Ron Wuensch, Indiana Optometric Association
Jim Zieba, Indiana State Medical Association